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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

DAMON S. BONNEAU, JR.

v.

SAN ANTONIO POLICE DEPT. OFFICER
RICHARD CUELLAR, Badge No. 0246,
Individually & in His Official Capacity as a
Police Officer for the City of San Antonio, Texas

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CIVIL ACTION NO.

5:19-cv-1471

PLAINTIFF'S COMPLAINT
AND JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

This action is brought pursuant to 42 U.S.C. Section 1981, 1983, 1988 and the 4th, 5th, and 14th Amendments to the United States Constitution. Jurisdiction is founded upon 28 U.S.C. Section 1331 and 1341 (1)(2)(3) and the aforementioned statutory and constitutional provisions. Plaintiff invokes the pendent jurisdiction of this court to hear and decide claims arising under state law. The amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00) excluding interest or cost.

PARTIES AND SERVICE

1. Plaintiff, **DAMON S. BONNEAU, JR.**, is an Individual who is a citizen of the United States and a resident of the State of South Carolina. Plaintiff resides at 225 October Glory Dr., Blythewood SC 29016-7638. The Plaintiff, **DAMON S. BONNEAU, JR.** (hereinafter referred to as "Plaintiff" or "BONNEAU"), is presently before the Court for all purposes.

2. Defendant, **San Antonio Police Department Officer RICHARD CUELLAR, Badge No. 0246** (hereinafter referred to as “Defendant”), individually and in his official capacity as a Police Officer for the SAN ANTONIO POLICE DEPT., San Antonio, Texas, is an Individual who is a resident of the State of Texas. The Defendant may be served with process at the *Public Safety Headquarters* building located at **315 South Santa Rosa, San Antonio TX 78207.**

JURISDICTION

3. The action arises under 42 U.S.C. Section 1981, 1983 and 1988 and the 4th, 5th, and 14th Amendments to the United States Constitution. Jurisdiction is founded upon 28 U.S.C. Section 1331 and 1341 (1)(2)(3).

4. This Court has supplemental jurisdiction over state law claims discussed below under 28 U.S.C. Section 1367(a) because they arise out of the same case or controversy.

NATURE OF ACTION

5. This is an action under Title 42 U.S.C. Section 1983, as the San Antonio Police Dept. has instituted specific policies which discriminate against BONNEAU and has subjected BONNEAU to disparate treatment, thus causing financial harm.

FACTS CONCERNING ARRESTS

6. On July 3, 2019, San Antonio Police Officer RICHARD CUELLAR was dispatched to a residence located at 5100 S. Leonard, San Antonio TX 78228. Plaintiff was sitting on the curb and committing no illegal act. Defendant RICHARD CUELLAR approached Plaintiff BONNEAU and ordered him to give him his right to carry permit. Plaintiff BONNEAU responded that he was formerly a peace officer and knew that he did not have to give Defendant CUELLAR his permit unless he was carrying a gun. The Plaintiff advised that he was not carrying and advised that he

would not give Defendant CUELLAR his right to carry permit. Plaintiff was then handcuffed in an aggressive manner and the handcuffs were placed on too tight. The placing of the handcuffs onto Plaintiff BONNEAU was conducted with excessive force and caused permanent injury to the Plaintiff. Plaintiff BONNEAU complied with the police officer's request.

7. Defendant CUELLAR then initiated a series of harassment statements against Plaintiff BONNEAU, and ultimately issued a citation to the Plaintiff without just cause for which Plaintiff would have to travel from out of state in order to attend the hearings for the citations. The charges were eventually dismissed due to lack of evidence.

8. Plaintiff would show that he was attempting to discipline his children. Specifically, Plaintiff was requesting that the children return to him the cell phones which were his property.

9. Plaintiff would also show that the arresting officer executed an affidavit which was designed to strip Plaintiff of his right to carry a lawful weapon.

10. Plaintiff would further show that on September 27, 2019, Plaintiff was pulled over by San Antonio Police Officer RICHARD CUELLAR. Plaintiff had committed no illegal act. At that time, Plaintiff was arrested for an alleged theft of a dog which belonged to Plaintiff.

11. The facts concerning such arrest are as follows:

Plaintiff was operating his vehicle in a lawful manner. He was pulled over and stopped by Police Officer RICHARD CUELLAR allegedly for the theft of a dog which belonged to Plaintiff. The officer took the word of Plaintiff's 16 year old daughter who claimed that the dog belonged to her and that Plaintiff had stolen the dog from her. Plaintiff's daughter informed Defendant CUELLAR that she did not wish to press charges and did not want her father to go to jail. Nevertheless, the Plaintiff BONNEAU was arrested by Defendant CUELLAR.

12. Plaintiff would show that at best, the dispute involved a civil matter between DAMON BONNEAU and his 16 year old daughter. It in no way escalated to a theft as Officer CUELLAR claimed.

13. As a result of the police officer's false report, Plaintiff will once again be subjected to the Bexar County justice system. Plaintiff was Ordered to appear before County Court No. 12 on the 21st of October, 2019, in order to answer the bogus charges.

**FACTS CONCERNING CLAIM OF DISCRIMINATION
DUE TO PLAINTIFF'S RACE**

14. Plaintiff would allege that the fact that he is a Black male was the primary reason why the San Antonio Police Officer in question assumed that he had committed a crime. Plaintiff would show that he was subjected to disparate treatment arrested due to his race. Plaintiff would also allege that the Defendant knew that Plaintiff was a member of a protected class.

FALSE IMPRISONMENT BY RICHARD CUELLAR

15. Defendant, RICHARD CUELLAR, willfully detained Plaintiff. Plaintiff did not consent to the detention, and the detention was without legal authority or justification. Plaintiff suffered damages for which Plaintiff herein sues.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

16. Defendant intentionally caused emotional distress to Plaintiff. Defendant's conduct was extreme and outrageous, and proximately caused Plaintiff severe emotional distress. Plaintiff suffered damages due to the illegal arrest and conduct of the Defendant for which Plaintiff hereby sues. Plaintiff would specifically show that the acts of the officer in arresting Plaintiff were conducted with knowledge and without the probable cause necessary to effectuate an arrest.

DAMAGES

17. Plaintiff sustained the following damages as a result of the actions and/or omissions of Defendant described herein above:

- a. Physical pain in the past;
- b. Physical pain in the future;
- c. Mental anguish in the past;
- d. Mental anguish in the future;
- e. Humiliation;
- f. Emotional pain;
- g. Inconvenience;
- h. Loss of enjoyment of life;
- i. All reasonable and necessary attorney's fees incurred by or on behalf of Plaintiff;
- j. Expert fees as the Court deems appropriate;
- k. All reasonable and necessary costs incurred in pursuit of this suit;
- l. Lost opportunity costs; and,
- m. Prejudgment interest and Post-judgment interest.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff **DAMON S. BONNEAU, JR.,** respectfully prays that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, Judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limits of the Court; together with interest as allowed by law;

costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

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PLAINTIFF HEREBY DEMANDS TRIAL BY JURY